

00-0662

(Do Not Write Above This Line)

AN ORDINANCE BY
COUNCILMEMBER LEE MORRIS

AN ORDINANCE TO CLOSE A
PROPOSED COMMERCIAL CURB
CUT ON MIDVALE DRIVE, AND FOR
OTHER PURPOSES

6/19/00 - Councilmember Morris' Motion
to Override FAILED by roll call vote
During deliberation of the Motion
to Override the Council adjourned
to Executive Session to discuss
pending litigation
President Pro Tem Starnes Presided
over

JUN 05 2000

COUNCIL

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred

5/1/00

Referred To:

City Utilities

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee <i>City Utilities</i>	Committee
Date <i>5-9-2000</i>	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side)	Action: Fav, Adv, Hold (see rev. side)
Other:	Other:
Members	Members
Refer To	Refer To

Committee <i>City Utilities</i>	Committee
Date <i>5-30-00</i>	Date
Chair <i>Clara Dudley</i>	Chair
Action: Fav, Adv, Hold (see rev. side)	Action: Fav, Adv, Hold (see rev. side)
Other:	Other:
Members <i>James H. Hester</i> <i>THE IN CITY</i> <i>Deborah Starnes</i> <i>Gabe</i>	Members
Refer To	Refer To

FINAL COUNCIL ACTION

- ☒ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED
JUN 5 2000

ATLANTA CITY COUNCIL PRESIDENT

Robert A. Parker

CERTIFIED
JUN 05 2000

Spauld
DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

VETO
JUN 13 2000
Jim Callahan
MAYOR

State of Georgia

County of Fulton

AFFIDAVIT

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, Debi M. Starnes, who, after being duly sworn, deposes and on oath states the following:

(1) I was the presiding officer of a meeting of the [_____ Committee Atlanta City Council] held on June 19, 2000.

(2) That it is my understanding that O.C.G.A. § 50-14-4(b) provides as follows:

When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

(3) A portion of the meeting held on June 19, 2000, was closed for the purpose of meeting with the City Attorney regarding potential litigation involving 00-0-0662 (Veto thereof). The meeting was for discussion allowed by O.C.G.A., Title 50, Chapter 14. The closed portion of the meeting was devoted solely to matters within the attorney client privilege as allowed by law. O.C.G.A. § 50-14-2. The specific subsection which authorizes closure in this instance is O.C.G.A. § 50-14-2(1).

(4) This affidavit is being executed for the purpose of complying with the mandate of O.C.G.A. § 50-14-4(b) that such an affidavit be executed.

This, the 19th day of June, 2000.

Debi M. Starnes
Name: Debi M. Starnes
Title: President Pro Tempore - Atlanta City Council

Sworn to and subscribed before me
this, the 19th day of June, 2000.

Rhonda Daughin Johnson
Notary Public

06-15-00 P12:49 IN



CITY OF ATLANTA

BILL CAMPBELL
MAYOR

55 TRINITY AVENUE, S.W.
ATLANTA, GEORGIA 30335-0300
(404) 330-6100

June 15, 2000

Council President Robb Pitts
Members of the Atlanta City Council
City Hall 2nd Floor Suite 2900
55 Trinity Avenue, SW
Atlanta, Georgia 30335

Dear President Pitts and Members of Council:

I hereby return with my veto, Ordinance # 00-O-0662

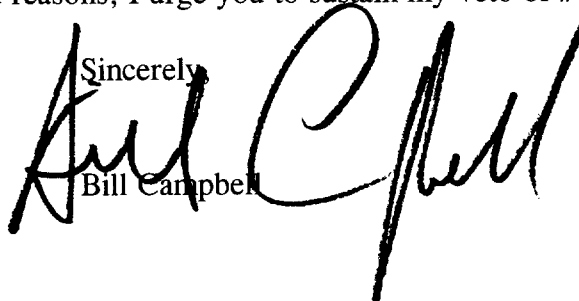
On June 5, 2000 the Atlanta City Council adopted Ordinance # 00-O-0662 that proposes to close an approved commercial curb cut on Midvale Drive, NW.

The Bureau of Buildings issued a valid permit for the commercial curb cut on Midvale Drive in accordance with the City of Atlanta code. The City Attorney has opined that "the rights of the permit holder have already been vested and as such cannot be divested by the retroactive application of Ordinance 00-O-0662". The City Attorney has further opined that conflicts of this nature must be addressed by appeal to the Board of Zoning Adjustment, rather than by legislative action of the City Council.

Furthermore, I have also been advised that the closing of the proposed commercial curb cut as directed in 00-O-0662 may be, in effect, condemning the right of access to the public right of way. If this is the case, State of Georgia law requires that condemnation procedures be followed in order for it to become a legal action.

For the aforementioned reasons, I urge you to sustain my veto of #00-O-0662.

Sincerely,



Bill Campbell



**CITY COUNCIL
ATLANTA, GEORGIA**

00-0-0662

**AN ORDINANCE BY
COUNCILMEMBER LEE MORRIS**

**AN ORDINANCE TO CLOSE A PROPOSED COMMERCIAL CURB CUT ON
MIDVALE DRIVE, AND FOR OTHER PURPOSES**

WHEREAS, residents in the North Buckhead neighborhood have been struggling with the negative effects of commercial cut-through automobile traffic for many years as development continues to explode in the area; and

WHEREAS, an application for an exception to Code Section 16-11.006 was made for property on the corner of Roswell Road and Midvale Drive, to become an expansion of the Chastain Square shopping center, in order to allow a drive-thru facility for a Chick-fil-A establishment, which drive-thru facility would not otherwise be permitted next door to a residence; and

WHEREAS, the community prepared to oppose the application, but after the site had been clear-cut, learned not only that the application had been withdrawn, but that a building permit, apparently posted on one of the interior trees where it could not be seen, had been granted and that the appeal period may already have expired; and

WHEREAS, one of the elements of the permit involves the moving of what was a graveled drive to become a curbcut onto Midvale Drive; and

WHEREAS, a traffic light was installed at Chastain Square some years ago purportedly in part to anticipate the needs of the possible future expansion of the shopping center; and

WHEREAS, the City's public interest in promoting the livability of our beautiful forested single family neighborhoods and the public health, safety and welfare call for the City to eliminate the attraction to enter and exit the otherwise entirely residential Midvale, and cause shopping center patrons to enter and exit to and from Roswell Road at the traffic light installed for that purpose;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED that the commercial curbcut on Midvale be eliminated and closed.

00-0662
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COUNCILMEMBER LEE MORRIS

AN ORDINANCE TO CLOSE A
PROPOSED COMMERCIAL CURB
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OTHER PURPOSES

ADOPTED BY
JUN 05 2000
COUNCIL

- ☐ CONSENT REFER
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Date Referred 5/1/00
Referred To: City Utilities
Date Referred
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Committee
Date
Chair
Referred to

City Committee
Date 5-9-2000

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

First Reading

Committee

Date

Chair

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Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

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Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☒ 2nd

☐ 1st & 2nd

☐ 3rd

Readings

☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED
JUN - 5 2000

ATLANTA CITY COUNCIL PRESIDENT

Paula A. Patton

CERTIFIED
JUN 05 2000

DEPUTY MUNICIPAL CLERK
Paula A. Patton

MAYOR'S ACTION

VETO
JUN 13 2000

MAYOR



**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103**

MEMORANDUM

TO: Council President Robb Pitts
All Members of Council

FROM: Rhonda Dauphin Johnson
Municipal Clerk

DATE: June 14, 2000

RE: Returned Vetoed Legislation

On Tuesday, June 13, 2000 at 3:07 p.m. Ordinance 00-O-0662 which was Adopted by Council on June 5, 2000 was returned to this office Vetoed by the Mayor. However, a written statement from the Mayor detailing the reasons for the veto was not received. Per City Charter Section 2-403, the Mayor shall submit a written statement of such veto within two business days. I will notify and copy you when the veto message is received.

Starnes Presided

RCS# 2015
6/19/00
2:30 PM

Atlanta City Council

Regular Session

00-O-0662

TO CLOSE A PROPOSED COMMERCIAL CURB CUT
ON MIDVALE DRIVE
OVERRIDE

YEAS: 6
NAYS: 6
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

*Motion to Override
FAILED;*

*00-O-0662
was consequently
Filed without
objection of
Council*

N McCarty	N Dorsey	N Moore	NV Thomas
Y Starnes	Y Woolard	N Martin	Y Emmons
N Bond	Y Morris	B Maddox	Y Alexander
B Winslow	Y Muller	N Boazman	NV Pitts

00-O-0662